

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

RICHARD PEDRAJA,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
vs.	:	NO.:
	:	
BJ'S WHOLESALE CLUB, INC.,	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	
	:	
	:	
	:	

NOTICE FOR REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. § 1441

Defendant, BJ's Wholesale Club, Inc., hereby submits notice to the United States District Court for the Eastern District of New York for the removal of the above entitled action to this Honorable Court and, in support thereof, respectfully represents:

1. Defendant, BJ's Wholesale Club, Inc. (the "Club"), is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business located in the Commonwealth of Massachusetts.

2. Upon information, knowledge and belief, Plaintiff, Richard Pedraja, is an adult individual and citizen and resident of the State of New York, residing in the Borough of Queens, City of New York.

3. At all times material hereto, the Club was duly registered to do, and was doing, business in the State of New York.

4. On or about December 3, 2020, Plaintiff instituted the above action, by way of Summons and Complaint (collectively, the "Complaint"), true and correct copies of which are

attached hereto as **Exhibit “A,”** seeking damages against the Club for personal injuries he allegedly sustained in a slip and fall accident occurring at the Club located at 66-26 Metropolitan Avenue, Queens, New York on June 12, 2020. Plaintiff’s Summons states that Plaintiff resides at 20148 Gates Avenue, Apartment 3L, Ridgewood, New York 11385, and the Complaint states that Plaintiff resides in Queens, New York,

5. At the time the action was filed, the Club did not have notice that the value of Plaintiff’s claims exceeded Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

6. On or about December 24, 2020, the Club received the Complaint.

7. On January 15, 2021, a Stipulation of Partial Discontinuance without Prejudice was filed, dismissing only the claims for exemplary and punitive damages asserted by Plaintiff in the Complaint. A true and correct copy of the Stipulation of Partial Discontinuance is attached hereto as **Exhibit “B.”**

8. On January 15, 2021, the Club filed its Answer to the Complaint. A true and correct copy of the Club’s Answer is attached hereto as **Exhibit “C.”**

9. On January 15, 2021, the Club filed and served a Notice to Admit, seeking for Plaintiff to admit or deny whether he alleges that his damages, if proven at trial, are in excess of Seventy-Five Thousand (\$75,000.00) dollars, exclusive of interest and costs. A copy of the Club’s Notice to Admit is attached hereto as **Exhibit “D.”**

10. To date, Plaintiff has failed to respond to the Club’s Notice to Admit. As a result, by failing to respond within the twenty (20) day time period prescribed by Section 3123 of the New York Civil Practice Law and Rules (“CPLR”), all allegations contained therein are deemed admitted by operation of law. See CPLR § 3123.

11. On January 21, 2021, the Club filed an Amended Answer to the Club. A true and correct copy of the Amended Answer is attached hereto as **Exhibit “E.”**

12. Diversity of citizenship exists between Plaintiff, a citizen and resident of the State of New York, and the Club, a corporation organized and existing under the laws of the State of Delaware and having its principal place of business in the Commonwealth of Massachusetts.

13. Complete diversity of citizenship exists between the parties and removal is proper pursuant to 28 U.S.C. § 1441, *et seq.*

14. 28 U.S.C. § 1446(b) reads, in pertinent part, that:

If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable, except that a case may not be removed on the basis of jurisdiction conferred by section 1332 [diversity of citizenship] of this title more than 1 year after commencement of the action.

15. This Notice of Removal is timely under 28 U.S.C. § 1446(b) as it is filed within thirty (30) days after the Club’s first notice that Plaintiff’s claimed damages, if proven, are valued in excess of Seventy Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs. Moreover, this Notice of Removal is made within one (1) year after the filing of the Complaint on December 3, 2020.

WHEREFORE, the above action now pending against Defendant, BJ's Wholesale Club, Inc., in the Supreme Court State of New York, Queens County, is removed therefrom to this Honorable Court.

Dated: New York, New York
February 10, 2021

Respectfully submitted,

CHARTWELL LAW

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